

OFFICE OF THE ATTORNEY GENERAL  
GUIDELINES FOR CONTINGENCY FEE CONTRACTS

1. Pursuant to section 3012 of the Office of the Attorney General Contingency Fee Contract Authorization Amendment Act of 2012, effective September 20, 2012, D.C. Law 19-168, D.C. Official Code § 1-301.86a (2016 Supp.), the Attorney General may enter into contingency fee contracts for legal services under which the costs, expenses, and attorney's fees to private counsel related to the litigation are payable to private counsel from the amount recovered. The purpose of these guidelines is to provide a process for the approval and implementation of such contracts.
2. The Attorney General may respond to solicited and unsolicited proposals for legal services to enter into contingency fee contracts with private counsel.
3. Before entering into a contingency fee contract with private counsel, the Attorney General shall make a determination that the retention of qualified outside counsel will substantially assist the Office of the Attorney General (OAG) in protecting District residents and is in the public interest.
4. Each contingency fee contract for legal services that the Attorney General enters into shall provide that:
  - (a) The Attorney General shall retain complete control over the course and conduct of the matter and shall retain all decision-making authority over the matter, including but not limited to whether and when to initiate litigation, against whom actions will be taken, the claims to be brought in litigation, and type of damages sought;
  - (b) The Attorney General may designate a government attorney with supervisory authority to be personally involved in overseeing the litigation;
  - (c) Any party may contact the government attorney directly, without having to confer with the private counsel;
  - (d) A government attorney with supervisory authority for the case shall participate in all significant litigation matters and settlement conferences;
  - (e) All substantive pleadings, motions, briefs, formal documents, and agreements should bear the signature of the Attorney General or his designee; and
  - (f) All settlement decisions shall be made exclusively at the discretion of the Attorney General or his designee.

5. (a) The Attorney General may require that the private counsel advance reasonable and necessary costs of litigation, including court costs, travel, witness fees, consultants, accounting, expert fees, and expenses. These costs shall be subject to the Attorney General's approval and shall be reimbursed, to the extent reasonable, at the conclusion of a matter from any gross recoveries from the litigation. Private counsel shall be judicious in their spending decisions and shall incur expenses at a level similar to government lawyers under comparable circumstances. The government per diem and travel rates shall be used as a guide to determine the reasonableness of travel expenses.  
  
(b) If no recovery is realized, private counsel subject to a contingency fee contract shall receive no compensation or reimbursement of costs and expenses. If private counsel is hired for multiple matters against multiple defendants under one contract, private counsel will only be entitled to fees, costs, and expenses for a matter against a defendant that private counsel is successful in assisting the District in obtaining a recovery against, and private counsel will not be entitled to fees, costs, or expenses for any matter where there is no recovery by the District.
6. Each contingency fee contract for legal services shall require the attorney or law firm to maintain detailed, current billing records for all fees, costs, and expenses, including the time billed for all attorneys and paralegals. The attorney or law firm shall retain these records for a minimum of 12 years from the expiration or termination of the contract or the resolution of any appeal, whichever occurs later.
7. Each contingency fee contract for legal services shall require that when the contract is completed or if the contract is partially or completely terminated for whatever reason, all records related to the matter shall be preserved and made available to OAG for a period of at least 12 years from the date of the final statement or until the litigation is completed, whichever occurs later.
8. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 490, Pub. L. 93-198, D.C. Official Code § 1-204.51 (2012 Repl.), the Attorney General shall submit all contingency fee contracts that might reasonably be expected to be multi-year or to result in fees of \$1 million or more in a 12-month period to the Council for review and approval.
9. The Attorney General shall post all contingency fee contracts on OAG's website.